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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,253	12/17/2001	Andrew M. Perry	1981-004	5963

7590

03/19/2003

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EXAMINER

LUEBKE, RENEE S

ART UNIT

PAPER NUMBER

2833

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/023,253

Applicant(s)

PERRY

Examiner

Renee S. Luebke

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tapered surface of claims 4 and 6-12 must be shown or the feature canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. In regard to claim 9 it is noted that "tying" should be deleted from line 2 in order to be consistent with claim 6 from which it depends.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Dobbins, et al. Dobbins comprises a strap 100, and a brace 10 forming a closed loop with many contact points (each portion 40) and two tying sections 60. The straps are attached to the tying sections without any portions thereof intruding in the support circle. The strap and brace are procured and attached in the manner claimed. The method, including all of the claimed steps, is performed by anyone having a device as disclosed by Dobbins and procuring a woodwind instrument in any manner. It is noted that the claim includes no step that makes a connection between the procurement of the woodwind instrument and the procurement of the strap and brace. It is further noted that the introductory statement of intended use "for a woodwind . . ." and all other functional statements have been carefully considered, but are deemed not to impose any structural limitations on the claims distinguishable over Dobbins which is capable of such use. Whether the device is actually used in such a manner is dependent upon the performance or non-performance of a

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future act of use, not upon any particular structural relationship set forth in the claims.

5. Claims 13, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (see Fig. 4). This device comprises a strap 10, and a brace 15 with two tying sections. The straps are passed through the tying sections and enlarged with knots. The strap and brace are procured and attached in the manner claimed. The method, including all of the claimed steps, is performed by anyone having a device as disclosed by Thomas and procuring a woodwind instrument in any manner. Here too, the claim includes no step(s) that makes a connection between the procurement of the woodwind instrument and the procurement of the strap and brace, and further, the introductory statement of intended use "for supporting a woodwind . . ." and all other functional statements have been carefully considered, but are deemed not to impose any structural limitations on the claims distinguishable over Thomas which is capable of such use. Whether the device is actually used in such a manner is dependent upon the performance or non-performance of a future act of use, not upon any particular structural relationship set forth in the claims.

6. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas. In regard to claims 12 and 16, the use of heat to enlarge the end of a rope is a well known alternative to a knot, especially where there is a chance that the knot may come undone, and is seen to have been an obvious alternative to the knot of Thomas. In regard to claim 14, the looping of a strap so that it is around a tying section is a well known alternative, especially where the size of the opening is such to easily admit a knotted strap, and is therefore seen to have been an obvious alternative to the knot of Thomas.

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7. Claims 1-12 are allowed.

In regard to claim 1, the prior art fails to show or teach a woodwind instrument and a supporting device wherein the supporting device comprises a strap and brace as claimed. In regard to claim 6, the prior art fails to show or teach a supporting device comprising a closed loop with two openings and a tapered surface as claimed.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. It is suggested that responses to this final action be faxed to:  
(703) 872-9319 or 308-7722, 308-7724

Please refrain from sending a confirmation copy, as noted in 37 CFR 1.6(d) and 1.8(b).  
For formal communications, please mark "EXPEDITED PROCEDURE."  
For informal or draft communications please clearly label "PROPOSED" or "DRAFT."

Alternatively, responses may be mailed to:

Box AF  
Assistant Commissioner for Patents  
Washington, DC 20231

Hand-delivered responses should be brought to:

Crystal Plaza 4, Fourth Floor (Receptionist)  
2201 South Clark Place, Arlington, Virginia.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mrs. Renee Luebke at (703) 308-1511. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mrs. Paula Bradley, can be reached at (703) 308-2319.

A handwritten signature in black ink, appearing to read 'R. Luebke', with a stylized flourish at the end.

Renee S. Luebke  
Primary Patent Examiner  
March 17, 2003